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November 29, 2012

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Naa'bik'iyati' Committee responds to Secretary Salazar's Core Positions, Nation maintains position

WINDOW ROCK – Speaker Johnny Naize (Low Mountain, Many Farms, Nazlini, Tachee/Blue Gap, Tselani/Cottonwood), on behalf of the Water Rights Task Force, presented a report to the Naa'bik'iyati' Committee on Nov. 28 in the form of letter responding to the Department of Interiors' Core Positions for a Near Term Settlement.

The letter responds to DOI's Core Positions for a Near Term Settlement, which resulted from the position statement the Nation presented to DOI during a Nov. 14 meeting organized by the Department.

The Naa'bik'iyati' Committee approved the "Position Statement of the Navajo Nation on Comprehensive Water Rights Settlements" (resolution NABIN-87-12) on Nov. 9 in response to Secretary Salazar's Sept. 18 invitation for Navajo leadership to visit Washington to discuss a potential settlement of the Little Colorado River.

On Nov. 28 the Naa'bik'iyati' Committee approved the letter responding to DOI's Core Positions for a Near Term Settlement with a vote of fourteen supporting and zero opposing – the committee will continue to maintain its position outlined in resolution NABIN-87-12.

"The Navajo Nation appreciates your efforts to move a settlement of the claims of the Nation and the Hopi Tribe in the Little Colorado River basin," Speaker Naize stated in his letter to Secretary Salazar.

"Following our meeting with you and other Interior officials in Washington two weeks ago, and with further clarification of the Federal proposal provided by Deputy Hayes and others in telephone conference held on November 26, the Nation has determined that it is in the best interest of the Nation to stand on the Position Statement adopted by the Naa'bik'iyati' Committee of the Navajo Nation Council as it concerns a settlement of the Little Colorado River basin claims."

Speaker Naize also expressed appreciation to the department for supporting the following terms:

- 1) Delivery of 6,411 AFY of CAP to eastern Arizona Navajo communities through the Navajo-Gallup Water Supply Project without conditions, and specifically deleting requirements for: a) the extension of the Navajo Generating Station plant site lease and other related agreements, and b) that the Nation lease additional coal to Peabody. The Nation also

seeks the support of the Department for acquiring a water supply that is not subject to shortages.

- 2) Allow for the delivery of the 6,411 AFY of CAP water to the Navajo Nation upon the effective date of this LCR settlement.
- 3) Contain provisions reserving CAP water for a future Lower Colorado River settlement (22,598 AFY for Navajo).
- 4) Retain the Secretary's authority to take land into trust.
- 5) Eliminate provisions requiring Navajo Nation to waive claims for injury to water quality.
- 6) Contain the following provisions relating to springs supplied by non-N-aquifer water:
 - a. The United States, through USGS, will expand its spring monitoring program described in Section 6.2 of the settlement to include Hopi springs whose water supplies derive from sources other than the N-Aquifer;
 - b. The new bill would contain a provision requiring discussions among the Tribes and the United States regarding protections, to the extent feasible, for springs supplied by water outside the N-Aquifer in a future Lower Colorado River water settlement.
- 7) The Department will consult with the Navajo Nation and the Hopi Tribe on sacred sites.

Seven additional positions advocated for by the Nation were not accepted by the DOI – to which Speaker Naize asked the United States to “schedule a meeting with the Arizona parties to advocate for a settlement of the Tribes’ Little Colorado River claims that could be moved during the lame duck session.”

The Nation also asked to be a part of discussions on the following issues not accepted by DOI: a numerical quantification of the Navajo Nation's water rights to the mainstream of the LCR, including instream flow rights; the ability to make priority calls; federal funding for watershed restoration, conservation, and water project for washes and tributaries; the ability of the Navajo Nation to market its water rights outside of the Navajo Reservation; mandatory funding so that funds are available upon enactment; construction of water delivery projects to begin upon the appropriation of funds; and limiting the Navajo Nation's waivers of claims to the claims of the Navajo Nation and not the claims of members of the Nation.

“Despite the Department's belief that these issues cannot be resolved quickly, the Nation would like the opportunity to meet with the Arizona negotiating parties to hear directly from them on each of the Nation's positions,” Speaker Naize said in his letter.

“The Nation seeks the support of the United States as the Nation's trustee in any such negotiations for the positions outline above. If a settlement cannot be reached in the near term, the Navajo Nation will reassess its settlement position.”

Speaker Naize expressed his appreciation on behalf of the Nation for the DOI's senior officials' involvement and for their commitment to reach a settlement of the LCR basin on fair and equitable terms.

The Naa'bi'iyati' Water Rights Task Force is comprised of Speaker Johnny Naize and Council Delegates Katherine Benally, Elmer Begay, Joshua Lavar Butler, LoRenzo Bates, Jonathan Nez, Walter Phelps, Alton Joe Shepherd, and Dwight Witherspoon.

The advisory group to the Naa'bi'iyati' Water Rights Task Force, as stated in the enacting resolution of the task force, consists of Rita Gilmore, Nicole Horseherder, Ann Marie Chischilly, Byron Huskon, Jack Utter, and Thomas Walker.

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